



**THE ATTORNEY GENERAL  
OF TEXAS**

Gerald C. Mann

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ATTORNEY GENERAL

**AUSTIN 11, TEXAS**

Honorable T. M. Trimble  
First Assistant State Superintendent  
of Public Instruction  
Austin, Texas

Opinion No. 0-3175

Re: May the same three men be  
appointed to comprise the  
Board of Equalization for  
the City of Amarillo and  
for Amarillo Independent  
School District?

Dear Sir:

We are in receipt of your letter in which you set out  
the following facts:

"The City of Amarillo and Amarillo Independent School District and County of Potter, have, through a joint arrangement, heretofore employed experts to complete an appraisal of properties within the City of Amarillo for use by the respective municipalities as information which will be available to the respective boards of equalization in aid of more equitable equalization of values.

"The Amarillo Independent School District is an independent school district created by statute, employing its own tax assessor and collector and includes all of the territory within the City of Amarillo, and territory adjacent to the City of Amarillo situated in both Potter and Randall Counties, Texas."

Based on such facts you ask three questions:

"QUESTION 1. It has been thought that it would be to the interest of the public if the City

should appoint its Board of Equalization and that the School District would appoint the same three men to comprise its Board of Equalization, and that these men would act for both the City and the School District, giving notice to tax payers of hearings at which time tax payers would be permitted to appear and protest as to valuations applicable to both the City and School District. Does existing law authorize this procedure?"

Senate Bill No. 10, Chapter 8, Acts of the 31st Legislature, 1909, which provided for the creation of Amarillo Independent School Districts, provides in part as follows:

"The said board of trustees shall be vested with the full management and control of the free schools in said district, and shall be vested with all the powers, rights and duties that are provided by general law for boards of trustees of towns and villages incorporated for free school purposes only, including the powers and manner of taxation. . . ."

In Opinion No. 0-2687, this Department held that Article 2791, Revised Civil Statutes of Texas, applies to the Amarillo Independent School District. Such article reads in part as follows:

"It shall be within the discretion of the board of trustees of any independent school district to name an assessor of taxes who shall assess the taxable property within the limits of the independent school district within the time and in the manner provided by existing laws, in so far as they are applicable, and when said assessment has been equalized by a board of equalization appointed by the board of trustees for that purpose, shall prepare the tax rolls of said district and shall duly sign and certify same to the county tax collector as provided for in the succeeding article."

Section 40 of Article 16 of the Constitution of Texas provides in part as follows:

"No person shall hold or exercise, at the same time, more than one Civil Office of emolument, except that of Justice of Peace, County

Commissioner, Notary Public and Postmaster, Officer of the National Guard, the National Guard Reserve, and the officers Reserve Corps of the United States and enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States, and retired officers of the United States Army, Navy, and Marine Corps, and retired warrant officers and retired enlisted men of the United States Army, Navy, and Marine Corps, unless otherwise specially provided herein."

It is the opinion of this Department in answer to your first question that if the order of the Board of Trustees appointing the members of the Board of Equalization for the School District as is provided in Article 2791, supra, provides that the members of said Board of Equalization shall serve without compensation, then we believe that the individuals appointed as the Board of Equalization of the Amarillo Independent School District could be the same individuals who are serving as the Board of Equalization of the City of Amarillo. However, unless such order provided that the Members of the Board of Equalization of the Amarillo Independent School District so appointed should serve without compensation, the constitutional provision above quoted would prohibit the procedure inquired about.

"QUESTION 2. Under existing law, would it be legal for the City of Amarillo to appoint its Board of Equalization and the School District to appoint its Board of Equalization, both boards composed of different individuals, and have joint sittings of said two boards but reserving the right to make separate decisions as to any matter coming before said respective boards sitting at the same time and at the same place. This would be of great accommodation to the public, but a question has been raised as to the legality of such procedure.

"QUESTION 3. Would it be legal for the two Boards of Equalization, comprised of different men, to hold joint sessions with the experts employed to appraise property and then after such conferences hold separate and distinct meetings for the purpose of affording tax payers adequate opportunity to appear in protest of any action proposed by such respective boards. Under this question it is assumed that the only purpose of the

general meetings of the two boards with the experts is to familiarize them with properties and values and would not be intended to amount to any agreement on the part of the boards to arrive at certain valuations and remain steadfast thereon, but it would be the idea that these boards would have complete freedom of action and thought in the performance of their respective duties."

The rule is stated in 37 Tex. Juris. 1013 as follows:

"In the absence of any law directing when the assessment shall be made, or when the Board of equalization shall meet, or when the rolls shall be prepared and approved, those matters are under the control of the local authorities."

We are unable to find anything in the law that would prohibit the Board of Equalization of the Amarillo Independent School District from sitting at the time and place and in the manner you inquire about in your questions numbers 2 and 3, if such meetings are ordered by the Board of Trustees of the Amarillo Independent School District.

We trust that the foregoing fully answers your inquiry.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/ Billy Goldberg  
Assistant

APPROVED May 14, 1941

Grover Sellers  
First Assistant Attorney  
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Approved Opinion Committee  
GRL  
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